

EX PARTE OR LATE FILED

DOW, LOHNES & ALBERTSON, PLLC  
ATTORNEYS AT LAW

ORIGINAL

J.G. HARRINGTON  
DIRECT DIAL 202-776-2818  
jharrington@dlalaw.com

WASHINGTON, D.C.

1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802  
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

ONE RAVINIA DRIVE • SUITE 1600  
ATLANTA, GEORGIA 30346-2108  
TELEPHONE 770-901-8800  
FACSIMILE 770-901-8874

June 24, 2004

RECEIVED

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

JUN 24 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: **Written *Ex Parte* Presentation of Sorenson Media, Inc.**  
Telecommunications Relay Services and Speech-to-Speech Services for  
Individuals with Hearing and Speech Disabilities  
CC Docket No. 98-67

Dear Ms. Dortch:

In accordance with section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, I am submitting herewith an original and one copy of this notice of the attached written *ex parte* presentation. Copies of this letter also are being provided to the recipients of this presentation.

Please inform me if any questions should arise in connection with this letter.

Respectfully submitted,



J.G. Harrington

Counsel to Sorenson Media, Inc.

cc: K. Dane Snowden  
Thomas Chandler, Esq.

No. of Copies rec'd  
List ABOVE

0+1

DOW, LOHNES & ALBERTSON, PLLC  
ATTORNEYS AT LAW

J.G. HARRINGTON  
DIRECT DIAL 202-776-2818  
jharrington@dialaw.com

WASHINGTON, D.C.  
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802  
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

ONE RAVINIA DRIVE • SUITE 1600  
ATLANTA, GEORGIA 30346-2108  
TELEPHONE 770-901-8800  
FACSIMILE 770-901-8874

June 24, 2004

Mr. K. Dane Snowden  
Chief, Consumer and Governmental  
Affairs Bureau  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Thomas Chandler, Esq.  
Chief, Disability Rights Office  
Consumer and Governmental Affairs  
Bureau  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: ***Written Ex Parte Presentation of Sorenson Media, Inc.***  
Telecommunications Relay Services and Speech-to-Speech Services for  
Individuals with Hearing and Speech Disabilities  
CC Docket No. 98-67

---

Dear Messrs. Snowden and Chandler:

Sorenson Media, Inc., ("Sorenson"), by its attorneys and pursuant to Section 1.1206 of the Commission's rules, hereby submits this *ex parte* presentation addressing the waiver of the 10-second speed-of-answer requirement for video relay services ("VRS") and issues regarding state vs. federal administration of VRS. As you may know, Sorenson Media operates the largest VRS service in the nation, bringing to the Deaf community the highest-quality video interpretation service available. Thus issues relating to the future service requirements and administration of VRS of great concern to Sorenson.

On May 7, 2004, Ed Bosson, TRS administrator for Texas, NASRA chairman, and VRS pioneer, addressed the issue of the proper extent and substance of federal oversight of VRS in a speech to the IP Solution Summit. Mr. Bosson made the following points, with which Sorenson wholeheartedly agrees: (1) Demand is moving from traditional Deaf services over phone lines to new services like VRS and IP Relay over the Internet because these services provide the most natural form of relay for Deaf to hearing communication; (2) VRS is so technically and operationally different from traditional TRS that it requires a different regulatory approach in which functional equivalency is based on real-world evaluation of business and service requirements rather than the arbitrary imposition of inappropriate regulations from other services; (3) The FCC must administer VRS at the national level to ensure the broadest competition and lowest cost. Because Mr. Bosson's speech touched on the important VRS issues that are subject of this letter, Sorenson would like to take this opportunity to relate to the Commission and to expand upon the speech's contents.

**The Commission Should Extend the 10-Second Answer-Time Waiver Indefinitely**

First, Mr. Bosson pointed out that demand quickly is moving from traditional telephone services for the Deaf to new services like VRS and IP Relay. This is because these services provide the most natural form of relay for Deaf-to-hearing communication. Mr. Bosson stressed that because the provisioning of VRS services so greatly differs from traditional telecommunications services and other TRS services, VRS requires a different regulatory approach that bases functional equivalence among VRS and other telecommunications services on a *real-world* evaluation of business and service requirements. Mr. Bosson remarked that VRS and text relay, for example, are completely different services and that the Commission's regulations should take those differences into account. VRS enables natural conversation, with emotion communicated in real time. No other relay service offers this level of communication improvement to the Deaf community as a means to obtain functional equivalency. It follows that the massive leap forward in communicative possibilities made possible by VRS tips the scale in favor of some small compromises in the Commission's quality-of-service requirements.

In particular, the service improvements wrought by VRS, when coupled with the technical and operational impediments to compliance, fully justify continued waiver of the speed-of-answer requirement found in Section 64.604(b)(2) of the Commission's rules.<sup>1</sup> Specifically, the limitations of current technology and the small pool of available interpreters should convince the Commission to extend this waiver. VRS service requires the highest qualified interpreters in the industry – interpreters who have many years interpreting experience so they can accurately interpret conversations that include regional sign dialects and a broad range of signing styles and abilities. The number of interpreters capable of performing this service is extremely limited and they command hourly wages four times higher than a typical trained TTY or text relay typist. Thus, as a practical matter, the Commission would need to double the current NECA funding rate to offset the costs that VRS providers would need to expand staff sufficiently to maintain a 10-second answer-time.

Even if the Commission were to fund VRS providers adequately to permit them to hire enough interpreters to meet the 10-second requirement, this added hiring would exacerbate intolerable strains that already are being placed on the national pool of interpreters available for other purposes. Even under current VRS staffing levels, there has been an outcry from the Deaf community, which is greatly concerned that hiring by VRS call-centers across the country is causing a shortage of interpreters. The CEO of Communications Services for the Deaf, the largest community interpreting service in the country, has contacted Sorenson on several occasions to make it aware of the severe shortage of community interpreters and the migration of the top community interpreters to VRS. In fact, currently there are only 5,200 nationally certified interpreters in the entire country; there are seven VRS providers competing to hire as many of them as possible; and there are myriad other interpreting tasks that require interpreters

---

<sup>1</sup> See Comments of Sorenson Media, Inc., CC Docket No. 98-67, filed October 20, 2003; 47 C.F.R. § 64.604(b)(2).

of an equally high skill level. In other words, the country already is experiencing a national shortage of qualified interpreters, and mandating the 10-second answering requirement only will make the shortage more acute.

To address this shortage, Sorenson, in conjunction with Gallaudet University and other leading educational institutions, is developing VRS-specific, custom-fit curriculums to accelerate the development of next-generation-skilled VRS interpreters. In the interim, Sorenson is attempting to balance the needs of local community interpreting with providing the broadest access possible to Deaf consumers who want to use Sorenson VRS. Sorenson has no plans to curtail or limit access to our service, but given the exploding growth of VRS demand, the interests of the Deaf community plainly would not be served by instituting the 10-second answer-time requirement – particularly not when the best argument for doing so appears to be regulatory parity with the fundamentally different text relay service. Removing the answer-time waiver will immediately cause a substantial rise in costs and subsequent requirement for significantly larger reimbursement, create severe shortages for local community interpreters, and even then will not lead to a 10-second answer time until sufficient skilled interpreters are developed. For these reasons, Sorenson requests that this waiver be made indefinite and that the Commission let the free market choice of customers determine which of the several communications relay services they prefer to use.

### **The Commission Should Maintain Federal Control Over VRS Administration**

Mr. Bosson also expressed his view that ensuring vigorous competition and low costs for VRS customers requires the FCC to administer and fund VRS nationally, rather than allowing primary administrative responsibilities to devolve to the states. The alternative – state certification and funding – is sure to lead to decreased competition and innovation. As Mr. Bosson pointed out, permitting individual states to approve each VRS provider likely would lead to “sole-source” state contracts in which a single VRS provider is permitted to offer all state-supported VRS services within the state. Experience shows that the states, if left free to choose, will not offer multi-vendor TRS contracts – they have not in the past and there is no reason for them to do so in the future. Moreover, small states that produce a small number of VRS minutes would drive the price of the VRS fund significantly higher if local VRS vendors in those states cannot amortize the costs of service nationally by serving states with larger populations.

To Mr. Bosson’s observations, Sorenson adds that requiring providers to obtain certification in every state where they offer service would effectively prohibit non-LEC affiliated competitive vendors like Sorenson from offering service. If this had been the Commission’s policy from the beginning, it would have denied the Deaf community access to the first consumer video IP phone, Sorenson’s VP-100. The VP-100 is an exceptional communication tool that has dramatically improved Deaf-to-hearing communication. The individual state-monopoly system that likely would result if the Commission allows state administration of VRS would be highly unlikely to foster the innovation that will be necessary to develop the next generation of VRS phones.

K. Dane Snowden  
Thomas Chandler  
June 24, 2004  
Page 4

The Commission knows that the kind of competition that current VRS administration and regulations have produced is the best way to ensure innovation, low prices, and a commitment to customer service. If there is abundant competition and multi-vendor choices for VRS customers, then consumers are free to take their business to another vendor to get better service if they are dissatisfied. All providers and the Commission share the same goal of ensuring the highest quality communications experience for the Deaf community. Unfortunately, if the Commission permits primary state VRS administration or eliminates the existing VRS waivers, VRS vendors like Sorenson will not have the opportunity to compete and win customers based on the quality of our service. In that case everybody loses except the lucky few providers that are granted state contracts to provide VRS. Sorenson is confident that the Commission will avoid these results.

Sorenson looks forward to continuing to serve the Deaf community and to working with the Commission to ensure a regulatory framework that makes sense for VRS providers, VRS users, and the Deaf community at large.

In accordance with the requirements of Section 1.1206 of the Commission's rules, this letter is being provided to the Secretary's Office on this date.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.G. Harrington", with a stylized flourish at the end.

J.G. Harrington

Counsel to Sorenson Media, Inc.